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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,109	05/13/2006	Vladisav Mikovanovic	VM001a0nUS	1314
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David Burleson Zollinger + Burleson P O Box 2368 Canton, OH 44720				
EXAMINER				
GREEN, ANTHONY J				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/579,109

Applicant(s)

MILOVANOVIC, VLADISAV

Examiner

Anthony J. Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-9 is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 2-5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/55/08)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because it is not found on a single page free of extraneous material. Correction is required. See MPEP § 608.01(b).
2. The disclosure is objected to because of the following informalities: In the specification the commas as decimal points in the numbers should be changed to periods (i.e. on page 5, line 14, "98,0" should be -- 98.0 --).

Appropriate correction is required.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification lacks support for all of the limitations recited in the instant claims, particularly the amounts of the components.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by European Patent Specification No.1010740A.

The reference teaches, in the abstract, examples and the claims, a coolant composition comprising glycerol, water and other additives.

The instant claims are met by the reference as the reference teaches compositions that encompass that which are instantly claimed. As for claim 6, while the reference does not recite that the composition is a regenerator for wasted antifreeze it is well settled that when a claimed composition appears to be substantially the same as a composition disclosed in the prior art, the burden is properly upon the applicant to prove by way of tangible evidence that the prior art composition does not necessarily possess characteristics attributed to the CLAIMED composition. In re Spada, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Circ. 1990); In re Fitzgerald, 619 F.2d 67, 205 USPQ 594 (CCPA 1980); In re Swinehart, 439 F.2d 2109, 169 USPQ 226 (CCPA 1971).

6. Claims 1 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Wenderoth et al (US Patent No. 6,818,147 B2).

The reference teaches, in the abstract, examples and especially claims 2 and 11, an antifreeze concentrate based on alkylene glycols or glycerol, and other additives which is diluted with water for use as a ready to use aqueous coolant (see claim 11).

The instant claims are met by the reference as the reference teaches compositions that encompass that which are instantly claimed. While the reference does not recite that the composition is a regenerator for wasted antifreeze it is well settled that when a claimed composition appears to be substantially the same as a composition disclosed in the prior art, the burden is properly upon the applicant to prove by way of tangible evidence that the prior art composition does not necessarily possess characteristics attributed to the CLAIMED composition. In re Spada, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Circ. 1990); In re Fitzgerald, 619 F.2d 67, 205 USPQ 594 (CCPA 1980); In re Swinehart, 439 F.2d 2109, 169 USPQ 226 (CCPA 1971).

7. Claims 1 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Wenderoth et al (US Patent Application Publication No. 2003/0164470).

The reference teaches, in the abstract, examples, and the claims, an antifreeze concentrate based on alkylene glycols or glycerol, water and other additives. The composition is to be diluted with water for use as a ready to use aqueous coolant (see [paragraph 0098] and claims 7-8).

The instant claims are met by the reference as the reference teaches compositions that encompass that which are instantly claimed. As for claim 6, while the reference does not recite that the composition is a regenerator for wasted antifreeze it is well settled that when a claimed composition appears to be substantially the same as a composition disclosed in the prior art, the burden is properly upon the applicant to prove by way of tangible evidence that the prior art composition does not necessarily possess

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characteristics attributed to the CLAIMED composition. In re Spada, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Circ. 1990); In re Fitzgerald, 619 F.2d 67, 205 USPQ 594 (CCPA 1980); In re Swinehart, 439 F.2d 2109, 169 USPQ 226 (CCPA 1971).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frost et al (US Patent No. 5,925,173 A).

The reference teaches, in the claims, a coolant composition comprising:

(a) a liquid alcohol which functions as a freezing point depressant;

(b) from about 0.1% to about 5.5% by weight of a corrosion inhibitor composition comprising (i) one or more mono-carboxylic acids, or salts or isomers thereof, and (ii) from about 50 ppm to about 5000 ppm, based on the antifreeze coolant formulation, of a corrosion inhibiting surface active agent selected from the group consisting of water soluble alkali and alkaline earth metal nitrate salts, and ammonium and amine salts thereof, and mixtures thereof; and

(c) from about 10% to about 90% by weight water.

The corrosion inhibitor composition comprises one or more mono-carboxylic acids selected from the group consisting of saturated and unsaturated, aliphatic and

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aromatic, mono-carboxylic acids, and alkali and alkaline earth metal, ammonium and amine salts thereof, and mixtures thereof and the liquid alcohol is selected from the group consisting of methanol, ethanol, propanol, ethylene glycol, diethylene glycol, triethylene glycol, propylene glycol, dipropylene glycol, butylene glycol, glycerol, the monoethylether of glycerol, the dimethylether of glycerol, alkoxy alkanols, and mixtures thereof.

The instant claims are obvious over the reference. While the reference does not specifically teach an example wherein glycerol is used it does suggest that it may be utilized. "A reference can be used for all it realistically teaches and is not limited to the disclosures in its specific examples". See *In re Van Marter et al* 144 USPQ 421; *In re Windmer et al* 147 USPQ 518, 523; and *In re Chapman et al* 148 USPQ 71. As for claim 6, while the reference does not recite that the composition is a regenerator for wasted antifreeze it is well settled that when a claimed composition appears to be substantially the same as a composition disclosed in the prior art, the burden is properly upon the applicant to prove by way of tangible evidence that the prior art composition does not necessarily possess characteristics attributed to the CLAIMED composition. *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Circ. 1990); *In re Fitzgerald*, 619 F.2d 67, 205 USPQ 594 (CCPA 1980); *In re Swinehart*, 439 F.2d 2109, 169 USPQ 226 (CCPA 1971).

10. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood (US Patent No. 4,455,248 A).

The reference teaches, in the claims, a single-phase glycol antifreeze composition which comprises one or more glycols selected from the group consisting of ethylene glycol, diethylene glycol, triethylene glycol, propylene glycol and glycerol and additionally comprising for every 100 parts by weight of said glycol: (a) between about 0.1 and 500 parts by weight water, about 0.10 parts by weight of sodium metasilicate, (b) between about 1.6 and 2.2 parts by weight of a phosphate of potassium, (c) between about 0.15 and 0.50 parts by weight of a compound selected from the group consisting of sodium metaborate and sodium tetraborate, (d) between about 0.10 and 0.40 parts by weight of sodium nitrate, (e) an effective copper corrosion inhibiting amount of a compound selected from the group consisting of tolyltriazole, benzotriazole, and mercaptobenzothiazole, and (f) a quantity of alkali sufficient to provide a pH for the composition of between about 9 and 11.5.

The instant claims are obvious over the reference. While the reference does not specifically teach an example wherein glycerol is used it does suggest that it may be utilized. "A reference can be used for all it realistically teaches and is not limited to the disclosures in its specific examples". See *In re Van Marter et al* 144 USPQ 421; *In re Windmer et al* 147 USPQ 518, 523; and *In re Chapman et al* 148 USPQ 71. As for claim 6, while the reference does not recite that the composition is a regenerator for wasted antifreeze it is well settled that when a claimed composition appears to be substantially the same as a composition disclosed in the prior art, the burden is properly upon the applicant to prove by way of tangible evidence that the prior art composition does not necessarily possess characteristics attributed to the CLAIMED composition. In

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re Spada, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Circ. 1990); In re Fitzgerald, 619 F.2d 67, 205 USPQ 594 (CCPA 1980); In re Swinehart, 439 F.2d 2109, 169 USPQ 226 (CCPA 1971).

Claim Rejections - 35 USC § 112

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 6 the use of the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention and the exact scope of the claim is unascertainable. See MPEP § 2173.05(d).

Allowable Subject Matter

13. Claims 7-9 are allowed.
14. Claims 2-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

References Cited By The Examiner

15. The remaining references have been reviewed by the examiner and are considered to be cumulative to or less material than the prior art references relied upon in the above rejections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony J. Green whose telephone number is 571-272-1367. The examiner can normally be reached on Monday-Thursday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anthony J. Green/

Primary Examiner
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ajg
July 16, 2008